

REMARKS

With the present Amendment, claims 41, 53, 54, 67, 68, and 73 have been amended. Claims 45 and 55 have been cancelled. Thus, claims 41-44, 46-54, 56-63, and 65-75 are pending.

The status of the pending claims is somewhat confusing from the Office Action. On the cover sheet, claims 46-49, 60, 63, 65, 66, 70, 72, and 75 are indicated as allowed. However, on page 5 of the Office Action, claims 41-52, 54-63, 65, 66, 70, 72, and 75 are indicated as allowed. Certain of the claims indicated as allowed on both the cover sheet and page 5 of the Office Action are also indicated as rejected based on prior art references, as set forth in the body of the Office Action. Upon careful consideration of the Office Action, applicant believes that the claims intended to be allowed by the Examiner are 46, 47, 60, 63, 65, 70, 72, and 75. All of the remaining pending claims are specifically rejected in the Office Action. If this assumption is incorrect, the Examiner is respectfully requested to provide a detailed status of the claims and also to provide the applicant with an additional opportunity to address the present Office Action.

Independent claim 41 stands rejected in view of Cohn '351, as set forth on page 2 of the Office Action. Claim 41 is amended herein and patentably defines over Cohn '351 alone or in combination with any other reference of record. Claim 41 calls for the beverage production device to also include a drive system that is attached to the screen basket for moving the screen basket in first and second directions (e.g., up and down) within the tank. Claim 41 also calls for a programmable control system to be configured with the drive system to automatically adjust the height of the screen basket within the

tank as a function of the liquid level within the tank. As described in various places throughout the specification, a particular advantage of the control system is that beverage production may be controlled according to a number of factors, including the quantity of liquid within the tank. For example, as explained at page 9 of the substitute specification, the lifting movement of the screen basket during the brewing process can be selected so that for a specific quantity of liquid, the floor of the screen basket is located in the area of the surface of the liquid when the basket reaches its upper reversing point. This means that the basket does not have to run through its full course if the amount of liquid used is lower than a maximum amount, which could lead to an incorrect brewing time. Also, smaller quantities of the beverage can be prepared more quickly. As explained at page 14 of the substitute specification, if the tank is not completely filled with liquid, the path of the screen basket will be shorter than if the liquid was at a maximum level. This ensures that the infusion material (e.g., tea leaves) can still develop their full aroma even if a relatively small amount of the beverage is being produced. Applicant respectfully submits that Cohn '351 does not disclose such a drive system and associated control system.

Referring to Cohn '351, the "drive system" used with the coffee maker can only operate to drive the plunger and inverted cup 26 in a downward direction. The system is incapable of reversing the direction of the plunger and cup. As explained in the '351 reference, the plunger rod 16 must be manually pulled up until the plunger is against the inner cover plate 78. This "sets" the drive mechanism, which is a spring-motor device. When the liquid within the container reaches a certain temperature, a solenoid 90 releases the spring-motor mechanism and the plunger begins its downward course of

movement through the liquid to produce coffee. Once the plunger has reached the bottom of the container, the coffee is made. Thus, the drive system of Cohn '351 is configured solely to drive the infusion medium from an uppermost position to a lowermost position within the container. The drive system is incapable of automatically reversing the direction of the infusion material and thus cannot drive the cup 26 in first and second directions. Also, there is no type of control system whatsoever in the Cohn '351 device that adjusts the height of the screen basket within the tank as a function of liquid level within the tank.

With respect to the control system of Knepler '055 cited against claims 54 and 55, such control system is not configured to adjust or move a basket of infusion material within a tank of liquid. The control system of Knepler controls the water level within the tank and also the heating element associated with the tank. Accordingly, even if one were to combine the control system of Knepler with the device of Cohn '351, such combination would not render claim 41 obvious.

Accordingly, applicant respectfully submits that claim 41 defines over the art of record and is in condition for allowance. Claims 42 through 44, 48 through 59, 61, and 62 depend directly or indirectly from claim 41 and are thus also allowable.

As discussed above, independent claim 46 is believed to be allowed. Claim 47 depends from claim 46 and is also allowed. Likewise, independent claim 60 is believed to be allowed, as well as independent claims 63 and 65. Claim 66 depends from claim 65 and is thus also allowed.

Independent method claim 67 is also amended herein to call for the step of moving the screen basket containing the infusion material within the tank according to a


program of an automatic control system for a predetermined infusion time as a function of the type of infusion material and the amount of liquid within the tank. Claim 67 stands rejected under §103 in view of Cohn '351 and Moore '433. However, neither of these references alone or in combination discloses the step of moving the screen basket within the tank according to a program of an automatic control system as a function of both the type of infusion material and the amount of liquid within the tank. As discussed above, the control system of Knepler '055 also does not satisfy the claimed method step.

Accordingly applicant respectfully submits that method claim 67 is allowable, and that claims 68, 69, 71, 73, and 74 depending therefrom are also allowable. As discussed above, it is believed that independent claims 70, 72, and 75 have already been allowed.

With the present Amendment, applicant respectfully submits that all pending claims are allowable and that the application is in condition for allowance. Favorable action thereon is respectfully requested. The Examiner is encouraged to contact the undersigned at his convenience should he have any questions regarding this matter or require any additional information.

Respectfully submitted,

DORITY & MANNING, P.A.

By: 
Stephen E. Bondura
Registration No.: 35,070

P.O. Box 1449
Greenville, SC 29602-1449
(864) 271-1592
fax (864) 233-7342